THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.22473 of 2006

27.11.2006

Between:

M.Kalyan Chakravarthy, S/o.Hanumantha Rao
And another

… Petitioners

AND

The Executive Engineer, Irrigation, Saroornagar Division
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.22473 of 2006

ORDER:

The two petitioners are owners of residential plots i.e., plot Nos.106, 107, 119 and 130 comprised in survey Nos.151, 154, 155 and 157 in Block No.4 situated Meerpet village of Saroornagar Mandal in Ranga Reddy District. They allegedly purchased the plots under valid sale deeds. It is alleged that on 10.7.2006, officials of Hyderabad Urban Development Authority (HUDA) tried to lay a road on petitioners' land, the second petitioner filed W.P.No.15177 of 2006. The same was closed by order dated 07.8.2006 recording the statement of learned Standing Counsel for HUDA that there is no proposal to lay the road. Thereafter, on 23.10.2006, when the petitioners were taking steps for construction of a basement for compound wall, second respondent stopped construction on the ground that the petitioners' property falls within Full Tank Level (FTL) of Mantrala Cheruvu in survey No.140 adjacent to petitioners' plots. Aggrieved by the same, the present writ petition is filed.

Learned Assistant Government Pleader for Revenue (General-T) took time and filed counter affidavit opposing the writ petition. In the counter, the allegation that the petitioners are owners of plots in survey Nos.151, 154, 155 and 157 is not specifically denied. The filing of the writ petition (W.P.No.15177 of 2006) by the second petitioner is also not denied. However, it is the case of the second respondent that the petitioners' land comes under FTL of Mantrala Cheruvu as per the joint survey conducted by the officials of Revenue Department and

Irrigation Department and, therefore, construction activity was stopped.

Learned Counsel for the petitioners and learned Assistant Government Pleader for Revenue adhere to their positions even in the oral arguments. Learned Assistant Government Pleader, however, does not dispute that there cannot be any objection for the officials for permitting construction in the private land adjacent to Mantrala Cheruvu (presumably Government tank), unless appropriate authority passes an appropriate order in accordance with law. No such order has been passed prohibiting construction nor there is any move/proposal to acquire petitioners' lands on the ground that they are coming in FTL of Mantrala Cheruvu. Therefore, impugned action of the second respondent cannot be sustained. It shall however be open to the respondents to acquire the lands of petitioners if there is a need for strengthening Mantrala Cheruvu.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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November 27, 2006. (**V.V.S.RAO, J**)

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